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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,953	12/22/2000	Robert James Laferriere	GEMS:0110/YOD (15-SV-5653)	1242
7590	07/13/2005		EXAMINER THOMPSON, MARC D	
Patrick S. Yoder Suite 330 7915 FM 1960 West Houston, TX 77070			ART UNIT 2144	PAPER NUMBER

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/746,953

**Applicant(s)**

LAFERRIERE ET AL.

**Examiner**

Marc D. Thompson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The Response to the non-final action mailed on 11/19/2004, received 2/28/2005, has been entered into record.
2. Claims 1-29 remain pending.

#### *Priority*

3. No claim for priority has been made in this application.
4. The effective filing date for the subject matter defined in the pending claims in this application is 12/22/2000.

#### *Drawings*

5. The Examiner contends that the drawings submitted on 12/22/2000 are acceptable for examination proceedings.

#### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-29 are rejected under 35 U.S.C. §102(e) as being anticipated by Carleton et al. (U.S. Patent Number 6,061,717), hereinafter referred to as Carleton.

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8. Carleton disclosed generation of screen display at a controlled computer (host computer, controlled when remote computer(s) provide control of local application functions) (inter alia, Column 3, Lines 15-21, Figure 10, and Column 10, Lines 42-44), transmitting screen display data to the controlling (remote) computer (inter alia, Column 10, Lines 42-44), transmission of input event information from controlling (remote) to controlled (host) (inter alia, Column 8, Lines 1-4), definition/identification of a logical block of the display (e.g., "box") (inter alia, Column 10, Lines 30-31), and caching of display data for at least the "box" at the controlling computer (Column 10, Lines 60-62). Note that there was minimal, if any actual, difference between the "controlling" (remote) and "controlled" (host) terminal computers. See, inter alia, Column 11, Lines 18-27. All remaining limitations were expressly taught by the teachings of Carleton.

9. Since all the claimed limitations as broadly presented were expressly disclosed by Carleton, claims 1-29 are rejected.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR §1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(f) or (g) prior art under 35 U.S.C. §103(a).

12. Claims 1-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mairs et al. (U.S. Patent Number 6,216,177), hereinafter referred to as Mairs, in view of Carleton et al. (U.S. Patent Number 6,061,717), hereinafter referred to as Carleton.

13. Mairs disclosed the effective synchronization of remote computer monitor display screens for simultaneous output/display of image information on host, local, and remote computer terminal displays. See, inter alia, Abstract. Additionally, the system caches transmitted image information for remote monitor display, such that redundant transmission of image data was not required, thereby saving bandwidth. See, inter alia, Abstract. Mairs also mentioned a known need for negotiation of control of shared applications, the transfer of application data to remote application instances, the importance of caching information for effective system operation, and overall importance of effective display functionality and information transfer in typical shared application methodologies. See, inter alia, Column 1, Line 61 through Column 3, Line 29. Mairs expressly disclosed substantial discussion of graphical device interface (GDI) application function calls to effect various aspects of the invention, inter alia, in Column 5, Line 61 through Column 11, Line 11.

14. While Mairs disclosed the invention substantially as claimed, and particularly pointed out the desire for users in the art to control shared application through the use of sharing of display commands within the distributed sharing application environment, Mairs did not specifically disclose the formulation, transmission, interpretation, or subsequent functional procedures dealing with the sharing of application input within the shared application(s), such as input

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events, which would directly control application(s) running in this type of typical distribution environment. One of ordinary skill in the art at the time the invention was made would have been motivated to search the related art(s) for teachings which would have more fully described a shared application which the invention set forth by Mairs actually operated in to effect effective information transfer and simultaneous image display. See, inter alia, Column 1, Lines 32-49. Additionally, Mairs specifically described the functioning of GDI layer functionality (Column 5, Line 61 through Column 6, Line 37), leaving specific implementation of this event and image transfer mechanism open to the developer. This would have motivated one of ordinary skill in the art to explore further teachings concerning specific implementation and usage of GDI layer event and image transfer functionality in a shared application environment.

15. In the same art of computer conferencing/application sharing, Carleton disclosed generation of screen display at a controlled computer (host computer, controlled when remote computer(s) provide control of local application functions) (inter alia, Column 3, Lines 15-21, Figure 10, and Column 10, Lines 42-44), transmitting screen display data to the controlling (remote) computer (inter alia, Column 10, Lines 42-44), transmission of input event information from controlling (remote) to controlled (host) (inter alia, Column 8, Lines 1-4), definition/identification of a logical block of the display (e.g., "box") (inter alia, Column 10, Lines 30-31), and caching of display data for at least the "box" at the controlling computer (Column 10, Lines 60-62). Note that there was minimal, if any actual, difference between the "controlling" (remote) and "controlled" (host) terminal computers. See, inter alia, Column 11, Lines 18-27.

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16. The combination of Mairs and Carleton disclosed a conferencing system which would allow full application sharing, display, and control between application(s) executing on terminals arbitrarily located on a network, while maintaining effective methodology for simultaneous image display and application input control for the shared application(s). Further, it would have allowed specific “windows” to be shared application as opposed to the overhead and processing and bandwidth requirements of dealing with the entire graphical display. See, inter alia, Carleton, Column 2, Lines 48-52. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the conferencing system taught by Mairs using, inter alia, the image transmission and compression technique(s) provide therein, with, inter alia, the input event transmission and interpretation provided in the conferencing system provided by Carleton, minimally, to result in a fully stored application environment, where both image and input control information (e.g., device input events and/or input commands) were effectively, efficiently, and transparently to both the user(s) and application(s), saving computing resources, and network bandwidth. See, inter alia, Mairs, Column 1, Lines 32-49, and Carleton, Column 1, Lines 20-44.

17. Since all the claimed limitations as broadly presented were expressly disclosed by the combination of Mairs and Carleton, claims 1-29 are rejected.

***Response to Arguments***

18. The arguments presented by Applicant in the response received on 2/28/2005, are not considered persuasive.

19. Applicant asserts the prior art of record as applied fails to disclose the caching of screen data. See, inter alia, Response, received 2/28/2005, Page 9, second paragraph. It is noted that

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the broadest reasonable interpretation of the term caching is specifically defined herein as storage of information in a memory buffer used to decrease access time to frequently used data. It is submitted, minimally, that Carleton specifically disclosed this overly broad feature, *inter alia*, in Column 9, Lines 62-64 (storage of bitmap images is conventional and known in the art), and Column 10, Lines 46-62 (transfer of bitmap imagery may occur in pieces, all sections of which are stored/cached). Also note, Column 9, Lines 21-24, where stated "GDI functions are not the exclusive medium of communication between computers for replicating the displays". In fact, the transfer of entire bitmap images and regions and sub-regions were fully disclosed. Again, see Column 10, Lines 46-62. The storage of video imagery data which was transferred to a controlled computer to effect output on that local display, was fully met by Carleton. Likewise, the caching of a logical subsection of the entire display was also evident, minimally, in light of Column 2, Lines 48-52, where the selective areas of a display (*i.e.*, windows) were disclosed as sectional areas for image transfer.

20. On the same topic of caching and transferring imagery data, it cannot be reasonably argued that Mairs failed to disclose the caching of image/screen data in an application sharing environment. See, Mairs, *inter alia*, Column 3, Lines 22-29.

21. Applicant asserts "Examiner has failed to address the subject matter of the dependent claims...therefore, the rejection under 35 U.S.C. 102(e) is improper." See, Response, received 2/28/2005, Page 10, second paragraph. It is noted the dependent claims recite inherent/minimal considerations in view of the independently claimed subject matter. Further, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of



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the claims patentably distinguishes them from the references. Likewise, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made in regard to any of these dependent features.

22. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

23. In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of these two references would have been remedial to one of ordinary skill in the art. The identification and isolation of either piece of art as suggested and motivated by the other was evident in the art itself, minimally, as set forth above. Both the pieces of art reside in computer conferencing, both deal with event and image transfer between conferencing systems, both implement standard Windows™ GDI layer functionality, and flow seamlessly together to effect an enhanced application sharing system. This fact is outlined specifically above, was suggested directly by the art, and would have been obvious to one of ordinary skill in the art at the time of invention.

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24. Lastly, as a general matter, not only the specific teachings of a reference but also reasonable inferences which an artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. See *In re Preda*, 401 F.2d 825, 159 USPQ 342 (CCPA 1968) and *In re Shepard*, 319 F.2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. See *In re Sovish*, 769 F.2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. See *In re Jacoby*, 309 F.2d 738, 226 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. See *In re Bozek*, 416 F.2d 738, 1385 USPQ 545 (CCPA 1969) and *In re Nilssen*, 851 F.2d 1401-1403, 7 USPQ2d 1500-1502 (Fed. Cir. 1990). Every reference relies to some extent on knowledge of persons skilled in the to complement that which is disclosed therein. See *In re Bode*, 550 F.2d 656, 193 USPQ 545 (CCPA 1977).

25. Applicant has once again failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP § 2111. Applicant employs broad language which includes the use of words and phrases which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings which are broader than Applicant's disclosure, the

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Examiner is forced to interpret the claim limitations as broadly as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc D. Thompson whose telephone number is 571-272-3932. The examiner can normally be reached on Monday-Friday, 9am-4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached at 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned has recently changed, and is now 571-273-8300.

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28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MARC D. THOMPSON

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PRIMARY EXAMINER

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Art Unit 2144